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WHEN THE COMPLAINT IS THE CRUELTY: EXAMINING THE SUPREME COURT'S RULING ON FALSE LITIGATION AS GROUNDS FOR DIVORCE

~ Archi Ojha

I. INTRODUCTION

In *K. Srinivas Rao v. D.A. Deepa*, a Division Bench of the Supreme Court (Ranjana Prakash Desai and Aftab Alam, JJ.) held on 22 February 2013 that a wife's indecent complaint against her husband's family, followed by a sustained series of proceedings, amounted to mental cruelty under Section 13(1)(ia) of the Hindu Marriage Act, 1955.¹² The case is routinely cited for the proposition that false complaints constitute cruelty. This commentary argues that the decision rests on the proven falsity of one indecent allegation, not on the failure of a criminal case, and that its treatment of later appeals as part of the cruelty is the most doubtful step in the reasoning.

II. FACTS AND PROCEDURAL HISTORY

The parties married on 25 April 1999 under Hindu rites. Disputes between the elders broke out the next day, and by 27 April the couple had separated without consummation.³ The husband was an Assistant Registrar in the Andhra Pradesh High Court. On 4 October 1999 the wife complained to the Women Protection Cell, alleging dowry harassment and further alleging that her mother-in-law had asked her to sleep with her father-in-law.⁴ A case under Section 498A of the Indian Penal Code, 1860 followed; the wife later withdrew the complaint, the police filed a closure report, and a protest petition revived the case.⁵ She also sought restitution of conjugal rights, and the husband counterclaimed for divorce. The Family Court at Secunderabad dismissed her petition and granted him a divorce. The High Court reversed, holding that a

¹K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226 (India).

²Hindu Marriage Act, 1955, § 13(1)(ia), No. 25, Acts of Parliament, 1955 (India).

³K. Srinivas Rao, (2013) 5 SCC 226, ¶ 3.

⁴*Id.* ¶¶ 3, 15, 22.

⁵*Id.* ¶¶ 15, 23.

police complaint is no ground for divorce and that spouses who had not lived together could not be cruel to each other.⁶ Meanwhile, the husband was convicted under Section 498A in 2008 and sentenced to six months' imprisonment, but was acquitted on appeal in 2010.⁷

III. ISSUES

The Court had to decide whether the wife's complaint and later proceedings amounted to mental cruelty, whether cruelty requires cohabitation, as the High Court assumed, and what weight the marriage's irretrievable breakdown deserved.

IV. THE COURT'S REASONING

Justice Desai built on *Samar Ghosh v. Jaya Ghosh* and added to its illustrations of mental cruelty: unfounded indecent allegations against a spouse or relatives, and "repeated false complaints and cases in the court."⁸ It drew support from earlier decisions in which indecent accusations in pleadings, or a spouse's repeated complaints and cases, were held to be cruel. The Court located the first act of cruelty in the 1999 complaint itself. The allegation about the mother-in-law was held false, since the wife's own mother testified that the complaint was lodged out of frustration because the husband would not take her back.⁹ The Court added the wife's later conduct: a revision seeking enhanced sentence, appeals against acquittals, and complaints to the High Court aimed at having him removed from service.¹⁰

Rejecting the High Court's view, the Court held that living under one roof is not a precondition for mental cruelty, which can be inflicted from a distance through defamatory letters, indecent complaints or numerous proceedings.¹¹ It added that the parties had lived apart for over ten years and that irretrievable breakdown, though not a statutory ground, is a very weighty circumstance.¹² Divorce was decreed with permanent alimony of ₹15,00,000.¹³ Finally, acknowledging that fault did not lie with the wife alone, the Court directed Family Courts to refer disputes to mediation with the parties' consent, asked criminal courts hearing Section

⁶*Id.* ¶¶ 4–5, 9.

⁷*Id.* ¶¶ 18, 21.

⁸*Id.* ¶¶ 11, 14 (building on *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511 (India)); *id.* ¶¶ 12–13 (discussing *V. Bhagat v. D. Bhagat*, (1994) 1 SCC 337 (India); *Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate*, (2003) 6 SCC 334 (India); and *Naveen Kohli v. Neelu Kohli*, (2006) 4 SCC 558 (India)).

⁹*Id.* ¶¶ 15, 22.

¹⁰*Id.* ¶¶ 18–19, 23.

¹¹*Id.* ¶ 24.

¹²*Id.* ¶¶ 25–26.

¹³*Id.* ¶ 30.

498A cases to refer willing parties where settlement seemed possible without diluting the provision, and required mediation centres to set up pre-litigation desks.¹⁴

V. ANALYSIS

A. FALSITY, NOT OUTCOME.

The ratio is narrower than its reputation. The Court did not infer cruelty from a failed prosecution; the husband in fact stood convicted at trial in 2008 and was acquitted only later.¹⁵ What mattered was the falsity of a specific, indecent imputation, established from the wife's own side's evidence on the civil standard of probabilities.¹⁶ That is the sound reading. A court that treated every acquittal as proof of cruelty would punish genuine complainants, who already struggle to report domestic abuse, for seeking protection. The Supreme Court has itself recognised both the need for Section 498A and the reality of its misuse.¹⁷

B. REMEDIES AS EVIDENCE OF CRUELTY.

The weaker step is the Court's reliance on the wife's revision and her appeals against acquittal, even though it accepted that she may have been desperate to save the marriage and misguided.¹⁸ These are statutory remedies, and a complainant whose case had produced a conviction at trial can hardly be faulted for defending it. The inference of vindictiveness is credible only because of the earlier false complaint and the representations to the High Court. Courts applying the decision should therefore require proof of falsity or mala fides and treat the exercise of ordinary appellate rights as, at most, supporting evidence.

C. COHABITATION AND BREAKDOWN.

Holding that cruelty can be inflicted at a distance is correct, since litigation is today a common channel of matrimonial hostility. More contentious is the use of irretrievable breakdown. By calling it a very weighty circumstance, the Court approached a no-fault divorce within a fault-based statute, echoing the call for amendment in *Naveen Kohli v. Neelu Kohli*.¹⁹ The Supreme Court's later resort to Article 142 in *Shilpa Sailesh v. Varun Sreenivasan* shows that the statutory gap persisted.²⁰

¹⁴*Id.* ¶¶ 31–36.

¹⁵*Id.* ¶¶ 18, 21.

¹⁶*Id.* ¶ 22; see *N.G. Dastane v. S. Dastane*, (1975) 2 SCC 326 (India) (civil standard of proof).

¹⁷*Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281 (India); *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667 (India).

¹⁸*K. Srinivas Rao*, (2013) 5 SCC 226, ¶¶ 23, 31.

¹⁹*Naveen Kohli*, (2006) 4 SCC 558; *K. Srinivas Rao*, (2013) 5 SCC 226, ¶ 27.

²⁰*Shilpa Sailesh v. Varun Sreenivasan*, 2023 SCC OnLine SC 544 (India).

D. MEDIATION AND SECTION 498A.

The closing directions are arguably as important as the divorce. The Court noted that Section 498A is non-compoundable, except in Andhra Pradesh by state amendment, so it cannot be sent to mediation as a matter of course.²¹ Its solution, referral where both parties are willing, followed by quashing by the High Court if the settlement is genuine, protects the provision while reducing needless escalation. Its remark that early counselling might have averted the bitterness is the case's quiet lesson. The directions remain relevant under the Bharatiya Nyaya Sanhita, 2023, which now places the offence in Section 85.²²

VI. CONCLUSION

K. Srinivas Rao establishes that a spouse can be cruel through the courtroom as much as through the home, but its authority is strongest where falsity is proved and weakest where ordinary remedies are read as malice. Read with its mediation directions, it reflects a pragmatic judicial effort to shrink matrimonial litigation. Its lasting lesson is that matrimonial courts must examine why a complaint failed before calling it cruel.

²¹*K. Srinivas Rao*, (2013) 5 SCC 226, ¶¶ 34–35.

²²Bharatiya Nyaya Sanhita, 2023, § 85, No. 45, Acts of Parliament, 2023 (India).